

REMARKS

These remarks are directed to the office action mailed December 1, 2009, setting a three month shortened statutory period for response which expires on March 1, 2010. The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Claim 22 has been cancelled. Claims 10, 12, 13, 15 to 17, 20 and 21 are pending.

Claim Rejections - 35 USC § 112

Claims 10, 12, 13, 15-17, and 20-22 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 10, 16 and 21 have been amended to remove the objected-to language. Claim 22 has been cancelled. It is respectfully submitted that this rejection has been overcome and withdrawal of the rejection is requested.

Claim Rejections - 35 USC § 103

Claims 10, 13, 16, 17, 20 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the process disclosed within the instant Background of the Invention in view of any of Baskin (US Pat 4,956,030), Yukawa et al. (US Pat 5,568,508) and United Kingdom reference 1,127,296 (UK '296) and further in view of Edwardes et al. (US Pat 2,172,466). Claims 12 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the process disclosed within the instant Background of the Invention in view of any of Baskin, Yukawa et al., UK '296 and further in view of any of Orsini, Rostoker, Sakai, and Hoesch and further in view of either of Lemelson and Ballhausen.

Claim 21 recites a method **consisting essentially of** nine steps. Support for this claim is found on page 4, line 10 to page 5, line 6. None of the cited references teach or suggest a method consisting essentially of these nine steps. As described in MPEP 2111.03, "A 'consisting essentially of' claim occupies a middle ground between closed claims that are written in a 'consisting of' format and fully open claims that are drafted in a 'comprising' format." *PPG*

Industries v. Guardian Industries, 156 F.3d 1351, 1354, 48 USPQ2d 1351, 1353-54 (Fed. Cir. 1998).

As stated in the office action of February 2, 2009, the Examiner is of the belief that there is not any distinction between a “vibration and vacuum pressing” or a “pressure rolling process.” Applicant submits that a vibration and vacuum pressing process **creates** an antique-look surface having natural looking irregularities, ridges, depressions, and cracks. **Each slab of agglomerate stone produced has an original surface that is unique and different.** In contrast, a pressure-rolling process **eliminates** irregularities, ridges, depressions and cracks to yield a high-gloss, smooth surface. By pressure-rolling a film over a mixture, **identical surfaces are created on the slabs of agglomerate stone.** Even if the pressure-rolling film is embossed with an artificial pattern, identical surfaces with the same artificial pattern are created.

Vibration and vacuum pressing processes are directed to the field of art of creating individualized and original irregular surfaces on a slab of agglomerate stone. Pressure-rolling processes are directed to the field of art of creating identical surfaces on mass-produced slabs of agglomerate stone. Since the purposes of the two processes are directed towards obtaining distinctly different surface characteristics, it is therefore clearly not obvious to one skilled in the art to combine a vibration and vacuum pressing process with a pressure-rolling process. Furthermore, without relying on Applicant’s teachings, it is unobvious to one skilled in the art that by using a vibration and vacuum pressing process and by subsequently removing the polyethylene-coated paper in a single piece similar to a pressure-rolling process, that the created agglomerate stone would have an original antique-look surface having irregularities and cracks that does not have the disadvantages of agglomerate stones produced by the method discussed in the instant Background of the Invention.

It is clear from Col 4, lines 60 to 65 of Baskin that, after the film 7 is removed, the stone-like facing is of a “high gloss mirror finish” due to the inner surface of the film 7. This is contrary to the surface desired by applicant. Applicant’s surface, after the paper is removed, has an antique-looking surface having irregularities and cracks. Applicant’s paper is merely coated

with polyethylene, not the very specific film of Baskin having a surface on the underside to form patterns, as seen in Figs 2A and 2B. See also column 5, lines 5 to 14. Applicant's vibration and vacuum pressing process always results in an uneven and irregular surface after the paper is removed. Baskin's process results in a high gloss mirror finish. This is the result he wants. Applicant's process is thus not shown or suggested in Baskin, nor is any of the other primary references cited by the examiner. The secondary references add nothing to Baskin nor to Yukawa or the UK '296 reference.

The examiner's comments have been considered but it is obvious that Baskin desires to form a "high gloss mirror finish," not a surface having irregularities and cracks as claimed by applicant.

Applicant submits that the cited references relate to different fields of art and that there is no motivation for combining the teachings of these different fields of art. It is not obvious to one skilled in the art of creating original antique-look surfaces to substitute with processes used in the art of creating identical, high-gloss surfaces. Therefore independent claims 10, 16 and 21 and the claims thereby dependent therefrom are patentable under 35 USC §103. The Examiner is respectfully requested to reconsider and now withdraw the Examiner's rejection.

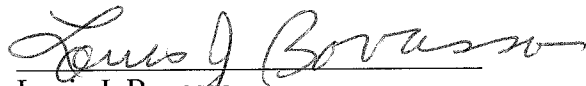
Conclusion

In view of the above, it is respectfully submitted that this application is now in good order for allowance, and such early action is respectfully solicited. Should matters remain, which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone Applicant's undersigned attorney.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 058009-019000 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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